



Entered on Docket  
July 13, 2007

A handwritten signature in black ink, appearing to read "Linda B. Riegle".

Hon. Linda B. Riegle  
United States Bankruptcy Judge

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In re:  
JOSEPH D. MILANOWSKI,  
Debtor.

Case No. BK-S-07-13162 LBR  
(Chapter 11)

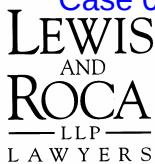
### **Discovery Plan and Scheduling Order**

Pretrial: July 27, 2007  
Time: 9:30 a.m.

The USACM Liquidating Trust (the "Trust"), USA Capital Diversified Trust Deed Fund, LLC ("DTDF"), Nevada State Bank ("NSB"), NV Hesperia Investors, LLC ("Hesperia"), Compass SA SPE LLC and Compass Financial Partners LLC ("Compass" and collectively with the Trust, DTDF, NSB and Hesperia, "Petitioning Creditors"), and Joseph D. Milanowski, alleged debtor ("Alleged Debtor", and collectively with Petitioning Creditors, the "Parties") submit their discovery plan.

#### **1. Discovery Plan**

**Request for waiver of requirement to prepare and file a formal discovery plan.**



1           The parties certify that all discovery can be completed informally, without the need  
 2 of court intervention and in conformance of the Standard Discovery Plan, and that the  
 3 matter will be ready for trial within 120 days, or

4           **A discovery plan is needed or useful in this case. Check one:**

5           \_\_\_\_\_ The parties agree to the standard discovery plan. The first defendant  
 6 answered or otherwise appeared on \_\_\_\_\_. Discovery shall be completed  
 7 within \_\_\_\_\_ days, measured from the date the first defendant answered or otherwise  
 8 appeared. Discovery will close by \_\_\_\_\_.

9           X \_\_\_\_\_ The Parties jointly propose to the court the attached discovery  
 10 plan and scheduling order. (Use Official Form 35 to the Federal Rules of Civil Procedure.)

11           \_\_\_\_\_ The parties cannot agree on a discovery plan and scheduling  
 12 order. The attached sets forth the parties' disagreements and reasons for each party's  
 13 position. (Use Official Form 35 of the Federal Rules of Civil Procedure.)

14 Complete parts 2 - 6.

15           **2. Nature of The Case:**

16           This is a proceeding on an involuntary bankruptcy petition, the Hesperia and  
 17 Compass joinders thereto, and the Alleged Debtor's answer.

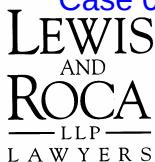
18           **3. Jury Trials:** Check one:

19           X \_\_\_\_\_ A demand for a jury trial has not been made

20           \_\_\_\_\_ A demand for a jury trial has been made pursuant to Fed. R. Civ. P.  
 21 38(b), and in conformity with LR 9015, but one or more of the parties does not consent to  
 22 a jury trial pursuant to 28 U.S.C. § 157(e).

23           \_\_\_\_\_ It is expressly understood by the undersigned parties they have  
 24 demanded a jury trial pursuant to Fed. R. Civ. P. 38(b), and in conformity with LR 9015,  
 25 and have consented to a jury trial pursuant to 28 U.S.C. § 157(e).

26           An original and two (2) copies of all instructions requested by either party shall be  
 27 submitted to the clerk for filing on or before \_\_\_\_\_.



1 An original and two (2) copies of all suggested questions of the parties to be asked  
 2 of the jury panel by the court on voir dire shall be submitted to the clerk for filing on or  
 3 before \_\_\_\_\_.

4. **Additional Pleadings:** Are there any counterclaims, cross claims or amendments to  
 5 the pleadings expected to be filed?

6  Yes

7 \_\_\_\_\_ No

8. **Settlement Conference:** Check one:

9 \_\_\_\_\_ A settlement conference is requested.

10  Settlement cannot be evaluated prior to additional discovery. The  
 11 parties may later request a settlement conference.

12. **Trial:** The case should be ready for trial by August 9, 2007 and should take \_\_\_\_\_  
 13 day(s).

14. All parties (consent/do not consent) to this court entering final judgment. (Circle  
 15 one).

16 Dated July 9, 2007.

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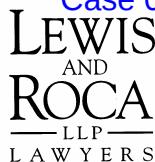
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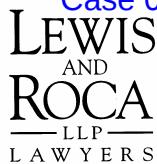
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**NV Hesperia Investors, LLC**

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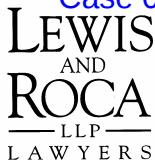
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## DISCOVERY PLAN AND SCHEDULING ORDER

The Parties submit the following Discovery Plan and Scheduling Order, as required by LR 26-1(d). The Alleged Debtor on one hand, and the Trust and DTDF on behalf of the Petitioning Creditors on the other, met and conferred telephonically on Friday, July 6, 2007.

### PROCEDURAL HISTORY

This case was commenced by the filing of a chapter 11 involuntary petition by the Trust, Diversified and NSB on May 29, 2007. The Court has heard and granted the Emergency Motion to Appoint Trustee, the United States Trustee has appointed Ford Elsaesser as interim chapter 11 trustee and the Court has approved such appointment.

The Alleged Debtor was served with the involuntary petition and summons and timely filed an answer on June 25, 2007. Hesperia filed a joinder in the involuntary petition on June 29, 2007, as did Compass on July 3, 2007.

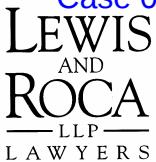
This Court has set the trial for August 9, 2007 at 9:30 a.m. and a pretrial conference on July 27, 2007 at 9:30 a.m. Counsel for the Alleged Debtor and counsel for DTDF will appear telephonically, as may counsel for other of the Parties. But counsel must appear in person in the event any substantive motions are scheduled for such hearing.

### DISCOVERY CUT-OFF DATE

A party shall respond to written discovery requests served via email on a business day within 10 days thereafter. The parties tentatively intend to take depositions via telephone on July 23 and 25, 2007. All discovery shall have been completed by August 2, 2007.

### AMENDMENT OF PLEADINGS AND ADDING PARTIES

The Petitioning Creditors or the Alleged Debtor shall file any amended pleadings on or before July 17, 2007.



## DISCLOSURE (EXPERTS)

The parties do not anticipate disclosing experts or presenting the Court with expert testimony.

## DISPOSITIVE MOTIONS

Any dispositive motions shall have been filed on or before July 13, 2007, with responses due on July 20, 2007, replies due on July 24, 2007, and oral argument at the pretrial conference on July 27, 2007 or such other time as is convenient for the Court.

**PRETRIAL ORDER**

The joint pretrial order shall be filed no later than noon on July 26, 2007, which may be amended on August 4, 2007 in light of additional discovery.

## FRCP 26(a)(3) DISCLOSURES

The parties agree that direct testimony may be received at trial via declaration so long as the witness (a) is available in person for cross-examination; or (b) the witness has been made available for deposition via telephone on July 23 or 25, 2007 (or such other dates as are agreed to by the parties), in which case the transcript of such deposition may serve as his/her trial testimony. No later than July 20, 2007, the Parties shall exchange proposed draft declarations of the witnesses whom they will call at trial. The Parties waive all disclosures required by FRCP 26(a)(3).

## SETTLEMENT

The parties do not anticipate a settlement or requesting a settlement conference.

## TRIAL TIME

The parties anticipate that the case may be resolved within the 1 day set for trial.

IT IS SO STIPULATED on July 10, 2007.

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